

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel W.A.
DREW EDMONDSON in his capacity as
ATTORNEY GENERAL OF THE STATE
OF OKLAHOMA, ET AL.

Plaintiff,

vs.

TYSON FOODS, INC., ET AL.

Defendants.

Case No. 05-CV-0329-GKF-SAJ

**STATE OF OKLAHOMA'S RESPONSE TO DEFENDANT'S REQUEST'SFOR
ADMISSION**

Pursuant to Fed. R. Civ. P. 36, plaintiff State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA ("the State"), objects and responds as follows to "Defendants' Requests for Admission to the State of Oklahoma":

GENERAL OBJECTIONS

1. The State objects to the definition of "Plaintiffs," "you" and "your" to the extent it includes "all offices, personnel, entities, and divisions of the Oklahoma state government" and to the extent it includes "W.A. Drew Edmondson and the office of the Oklahoma Attorney General, Miles Tolbert and the office of the Oklahoma Secretary of the Environment and their attorneys, experts, consultants, agents and employees." The plaintiff -- singular -- in this action is the State as sovereign; it is not these additional entities and individuals. Accordingly, wherever in these requests for admission the terms "Plaintiffs" [sic], "you" and "your" are used the State is responding as the sovereign and the sovereign alone.

intervention. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiving any objection, the State denies that elemental nitrogen, elemental arsenic, elemental zinc, and elemental copper occur naturally within the Illinois River Watershed. The State admits that phosphorus compounds, nitrogen compounds, arsenic compounds, zinc compounds, hormones and bacteria may occur naturally within the Illinois River Watershed.

REQUEST FOR ADMISSION NO. 10

Poultry litter does not contain elemental phosphorus.

RESPONSE TO ADMISSION NO. 10

This request is being responded to in accordance with and subject to objection number 8. Admitted.

REQUEST FOR ADMISSION NO. 11

Elemental phosphorus is on the CERCLA Hazardous Substances List.

RESPONSE TO ADMISSION NO 11.

The State objects to the definition of CERCLA Hazardous Substances list. See General Objection No. 3. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 12

The following substances are not on the CERCLA Hazardous Substances List: phosphate, orthophosphate, elemental nitrogen, and elemental copper.

RESPONSE TO ADMISSION NO 12.

The State objects to the definition of CERCLA Hazardous Substances list. See General Objection No. 3. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies that phosphate,

orthophosphate, and elemental copper “are not” on the CERCLA Hazardous Substances list.

The State admits that elemental nitrogen is not on the CERCLA Hazardous substances list.

REQUEST FOR ADMISSION NO. 13

No phosphorus compounds, nitrogen compounds, zinc compounds, or copper compounds found in poultry litter are on the CERCLA Hazardous Substances List.

RESPONSE TO ADMISSION NO.13

The State objects to the definition of CERCLA Hazardous Substances list. See General Objection No.' 3. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 14

The following substances do not contribute to eutrophication in the Illinois River Watershed: nitrogen compounds, elemental arsenic, arsenic compounds, elemental zinc, zinc compounds, elemental copper, copper compounds, hormones and bacteria.

RESPONSE TO REQUEST NO. 14.

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Further, the request is ambiguous because it seeks a response concerning the environmental effects of multiple substances and because Defendants do not define “contribute” and “eutrophication”. This request is being responded to in accordance with and subject to objection number 8. Therefore, the Plaintiff can neither admit nor deny this statement in total, as written. The terms “eutrophication” and “contribute” may have variable definitions that will change the response. Also, the effects of the substances listed in this Request vary greatly with respect to their “contribution” to “eutrophication”. Definitions of eutrophication vary in the scientific literature from its original application referring to increasing productivity of lakes to the more common and broader